

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

JOY PHILLIPS,

Plaintiff,

v.

CITY OF SOUTH BEND, acting by and
through its Police Department,
RONALD TEACHMAN, Individually and
in his official capacity as Chief of Police,

Defendant.

Cause No. 3:15-cv-527 PPS-CAN

DECLARATION OF DAVID NEWTON

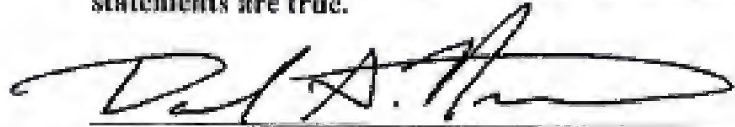
David Newton deposes and says:

1. My name is David Newton. I am over the age of eighteen and reside in St. Joseph's County, Indiana.
2. I was previously employed by the City of South Bend as a sworn police officer. When I left I held the rank of Lieutenant.
3. I am currently employed by the St. Joseph's County Prosecutor as an investigator.
4. While employed at the South Bend Police Department I was informed by another officer that Officer Ryan O'Neil made derogatory remarks to a civilian suspect about interracial relationships, and that on other occasions he expressed his discomfort with Muslims.
5. I filed an Administrative Advisory about that incident, which is attached as Exhibit A to this Declaration.
6. After I made that report, Officer O'Neil became highly critical of me for doing so.

7. I sent an electronic mail message to Chief of Operations Jeff Rynearson regarding O'Neil. A copy of that e-mail message is attached as Exhibit B.

Further Declarant sayeth not.

**I swear under penalty of perjury that the foregoing
statements are true.**



David Newton



SOUTH BEND POLICE DEPARTMENT - ADVISORY FORM

Employee Name: Cpl. Ryan ONeill #2061		Case Number:
Adviser Name: Lt. David A. Newton #496		Date Received: 07/11/08
Adviser Address:		Time Received: 0300
Phone Number:	Was incident reported? No	Date Closed: 07/10/08
		Time Closed: Unknown

NATURE OF ADVISORY
(Circle either Citizen or Administrative Advisory and then check the appropriate advisory)

Citizen Advisory

- ☐ Cursing / Abuse
☐ Disrespect
☐ Driving
☐ Excessive Force
☐ False Arrest
☐ Failure to Render Service
☐ Search / Seizure Violation

Administrative Advisory

- ☐ AWOL
☐ Excessive Lateness
☐ Failure to Complete Report
☐ Failure to Respond to Subpoena
☐ Insubordination
☒ Violation of Department Policy
☐ Other:

WITNESS INFORMATION

Witness Name: Ptl. Hibbs #2152	Address: 701 W. Sample St., South Bend, Indiana 46601	Phone #:
Witness Name: Ptl. Elwaer #2161	Address: 701 W. Sample St., South Bend, Indiana 46601	Phone #:

Does the complainant want to be contacted? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Was incident taped with in-car video system? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Has the officer been made aware of this advisory? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
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Comments:	If shift supervisor closed incident, then fill corrective action from drop down menu.
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Incident Details: On 07/11/08 @ 0320 hours this officer was contacted by Cpl. Glanz #2051 about Ptl. Hibbs #2152 wanting to have Cpl. ONeill #2061 removed as his Field Training Officer (FTO) because of inappropriate racial remarks that were offensive to Ptl. Hibbs because the racial remarks were inclusive to members of his family. It was also learned with my conversation with Cpl. Glanz that Cpl. ONeill had made inappropriate racial remarks to Ptl. Elwaer #2161 when he was the FTO for Ptl. Elwaer. Later in the shift I talked to Ptl. Hibbs and told him that I heard he wanted to switch FTO and asked him what was going on. Ptl. Hibbs would not talk to me at that time and told me he would call me later in the day after the shift was over and didn't feel comfortable talking about what happened while at work. Later that day I called Ptl. Hibbs at his home and asked him why he wanted to change FTO and what had happened that offended him. Ptl. Hibbs stated he was reluctant to talk to me because he feared repercussions from officers who were associated with Cpl. ONeill because, "You are a lieutenant and I am just a patrolman in training and I know how it works these are the guy work, and I have to work with these guys."

Signature of Division Chief

Signature of Employee's Supervisor

Signature of Employee Filing Advisory

INTERNAL AFFAIRS USE ONLY

Investigator:	Investigator's Phone:	Investigator's Email:
Referrals:	<div style="border: 2px solid black; padding: 5px; text-align: center;"> EXHIBIT  </div>	



SOUTH BEND POLICE DEPARTMENT - NARRATIVE SUPPLEMENTAL

Page 02 of 02	Report Type Advisory Additional	<input type="checkbox"/> INCIDENT VIDEO TAPED	Case No.
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I told Ptl. Hibbs that I wouldn't turn in any write-up until he had completed his Field training, but if there were inappropriate racial comments they had to be addressed. Ptl. Hibbs felt comfortable and told me the following: He was riding with Cpl. ONeill during his Field training when Cpl. ONeill saw an African-American woman and asked if Ptl. Hibbs, "do you want to get some of that black meat?" Cpl. Hibbs told Cpl. ONeill that he had dated African-American women while he was in high school. Later as they rode down the street there was an African-American man walking with a White female. Cpl. ONeill told Ptl. Hibbs, "man I hate seeing that it makes me sick, that makes me want to throw up." Ptl. Hibbs was offended because his sister who is a White female that has two biracial children with a African-American man. Ptl. Hibbs wouldn't talk about a supposed earlier incident in which Cpl. ONeill made other inappropriate remarks. Ptl. Hibbs said He no longer wanted to ride with Cpl. ONeill because Cpl. ONeill and other officers who work on the Northwest side of the city, "it is just like high school all they do is talk about other officers and each other when they are not around. I would rather not ride with him all they do is gossip."

I called Ptl. Elwaer and told him I had talked with Cpl. Glanz about supposed inappropriate racial remarks that were offensive to him when he was doing his Field training with Cpl. ONeill. Ptl. Elwaer stated that he and Cpl. ONeill were at a breakfast stop when Cpl. ONeill began to talk about Muslims and Arabic people in derogatory terms. Ptl. Elwaer didn't like the references towards Muslims and Arabic people, and the terms in which Cpl. ONeill was talking about Muslims and Arabic people made him "uncomfortable" at best. After Cpl. ONeill continued to talk about Muslims Ptl. Elwaer told Cpl. ONeill that he was of Arabic decent and was a practicing Muslim. Ptl. Elwaer said he has heard and dealt with such remarks about his religion and heritage since the tragedy of 911, but he didn't think he would have to deal with that kind of racial bias while being trained on the police department. I told Ptl. Elwaer I was going to document this incident because the behavior Cpl. ONeill was a violation of the S.B.P.D. Duty Manual (Rules of conduct 302.20: Officers shall not use coarse, profane or degrading language or gestures and shall not express and prejudice concerning race, religion, politics, national origin or personal characteristics). Ptl. Elwaer was glad that this type of behavior would be addressed.

I called Lt. Mattie Taylor in training and informed her of the statements made by Cpl. ONeill while he was the FTO of both Ptl. Hibbs and Ptl. Elwaer. I told her I wanted to switch FTO for Ptl. Hibbs and the opinions Cpl. ONeill has expressed to new officers he is training is not appropriate and needs to be addressed. Lt. Taylor talked to Lt. Schweizer informed him about the FTO change and the content of this advisory.

Advisory Received by:

07/16/08

Advisory Received by:

Lt. David A. Newton

495

Advisory Received by:

[Signature]

07/16/08

David Newton - FYI

From: David Newton
To: Jeffrey Rynearson
Date: 8/8/2008 2:21 AM
Subject: FYI
CC: Jeffery Walters

It has been brought to my attention that Cpl. O'Neill, Cpl. Houser and Cpl. Scott had a meeting yesterday (08/06/08) after roll call to come up with a strategy to deal with me because I am discriminating against Cpl. O'Neill. According to Cpl. O'Neill when I denied his called in personal day request on 08/05/08 to a sick day I am bias against him because he wrote me up. Also because I authored the Advisory Form regarding his racial remarks, I am out to get him. These statements are not true.

I sent you a email concerning the denial of a personal day request, changing it to a sick report on 08/05/08 as well as a copy to him. The personal day request was denied because he called in on afternoon shift and had Ms. DeLeon fill out a personal day request because he couldn't not make work for a medical issue. I changed it to a sick report and sent it through. I have no bias towards Cpl. O'Neill, Cpl. Houser, or Cpl. Scott. I am however not going to change rules, or break policy for them or anyone.

I have a documented past incident similar to Cpl. O'Neill's which was handled the exact same way by Lt. Young in May of 2005 and approved by the Capt. of the shift D.W. Chief Walters. I have all permanent documentation of this situation and know I am correct in the way I handled Cpl. O'Neill's situation. I am doing my job according to the guidelines and policies in our duty manual. I brought this to your attention to inform you about what was going on and to document this fact that I have done so. Thank you for your time.

Lt. David A. Newton #496

EXHIBIT

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